Department of Transportation

Office of the Secretary

and

Federal Aviation Administration

Code-share Safety

Program Guidelines

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Code-share Safety Program Guidelines

I. Introduction

Code-sharing is a marketing arrangement in which an airline places its designator code on a flight operated by another airline, and sells and issues tickets for that flight. Air carriers throughout the world continue to form code-share alliances to strengthen or expand their market presence or competitive ability. The practice of code-sharing has helped air carriers overcome some of the bilateral restrictions and economic constraints that have limited international growth.

In order to obtain authority for U.S. code-share service, DOT must find that the arrangement is in the public interest. Recently, questions have been raised about how to determine whether the code-share services of U.S. airlines on foreign air carriers meet an acceptable level of safety. The Department of Defense (DoD) and the Air Transport Association of America (ATA) entered into a Memorandum of Understanding in August of 1999 that established a code-share safety audit program for foreign air carriers that transport DoD personnel. That initiative has provided important benefits, and the DOT program described below builds upon it. At the December 1999 Chicago Aviation Conference, Secretary Slater and Administrator Garvey announced the Department's plan for reviewing the code-share passenger services of U.S. air carriers using foreign air carrier aircraft to see if they meet international standards for safety.

A principal measure of the level of safety of these foreign code-share carriers is in the results of the FAA's International Aviation Safety Assessment (IASA) Program[1]. With respect to that measure, a code-share arrangement with a foreign air carrier will only be approved if the foreign air carrier (1) is from a country that maintains a Category 1 rating under the FAA's IASA program[2]; or (2) is from a country that either holds an IASA Category 2 or 3 rating or has not been assessed by the FAA, and the foreign air carrier is using aircraft wet leased and operated by a duly authorized and properly supervised U.S. carrier or foreign carrier from a Category 1 country. If a country category slips from an IASA Category 1 to a Category 2 or 3, the impact on existing code-share arrangements will be considered on a case-by-case basis.

In determining whether a codeshare application is in the public interest under the statute, OST needs to review the safety of the U.S. codeshare service proposed. As part of their application

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[1] Foreign civil aviation authorities have the direct responsibility for overseeing the safety of foreign air transportation provided by their foreign air carriers.

[2] An IASA Category 1 rating means that the safety oversight of a foreign carrier provided by its civil aviation authority meets or exceeds the minimum international standards for safety oversight established by the International Civil Aviation Organization (ICAO).

for authority,[3] U.S. air carriers must thus address the level of safety of the U.S. code-share service provided by foreign air carriers through periodic audits. One method for U.S. carriers to meet this need in their applications is to follow these guidelines. Each U.S. air carrier that seeks or currently has a code-share relationship with a foreign air carrier may thus adopt a code-share audit program with a foreign code-share carrier. Under its audit program, a U.S. air carrier should perform initial and periodic on-site safety audits on each foreign code-share carrier having U.S. code-share service in order to review the degree that the foreign carrier is maintaining acceptable safety standards.

DOT will not be disposed to approve a code-share if it is unable to make a public interest determination about the level of safety of the U.S. code-share service. U.S. air carriers may provide the necessary information for this determination to FAA by including a compliance statement (more fully described in section IV) with their applications to OST that an on-site safety audit has been conducted and an audit report has been completed. The U.S. air carrier should also state that the foreign code-share carrier complies with the applicable ICAO safety standards. In advance of OST decision on whether to approve the code-share application, the FAA will review each audit report to determine whether the U.S. air carrier audit program was followed and the audit results are consistent with other safety information available to the FAA.

The following guidelines identify recommended minimum necessary elements for all code-share audit programs of U.S. carriers operating under 14 CFR Part 121 conducting U.S. code share service on a foreign air carrier[4]. The elements include the safety standards to be applied in an audit of a foreign carrier conducting U.S. code-share service, the content of a Code-share Audit Report, the Compliance Statement, and standards for the U.S. carrier review of its U.S. code-share service on the foreign code-share carrier. Code-share audit programs should only be used by authorized U.S. air carriers certificated under 14 CFR Part 121.

II. Audit Program

A U.S. air carrier seeking or maintaining a code-share relationship with a foreign carrier may develop a code-share audit program that provides for periodic on-site safety audits

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[3] Attached, as an Appendix to these Guidelines, is a summary of the application process which carriers should follow in seeking code-share authority from the Department.

[4] These guidelines are not intended to create or to change, and are not intended to be construed as creating or changing, any rights, duties, benefits, or obligations, or any duties or obligations on behalf of any person. Nothing in these guidelines is intended to affect any other agreement, obligation, or undertaking by or on behalf of any U.S. or foreign air carrier, or rights, duties, or obligations arising therefrom with regard to any person other than the U.S. Department of Transportation.

These guidelines are not intended to define or limit the agreements, understandings, or other arrangements between a U.S. and foreign air carrier concerning the performance of audits consistent with these guidelines.

of the foreign code-share carrier. Each U.S. air carrier code-share audit program will be reviewed by FAA and OST to determine whether it is an acceptable means of determining the levels of safety maintained by the foreign carrier and thereby meets the needs of the code-share approval process. At a minimum, the U.S. air carrier's code-share audit program should address:

- Methodology and approach
- Specific operational areas to audit
- Criteria for defining satisfactory audit results
- System for reporting and correcting findings
- Monitoring system
- Auditor qualification and authorization
- Audit frequency (including process for auditing code-shares in existence when the guidelines are put in place)

The U.S. air carrier should submit two copies of the audit program: one copy going to the Department of Transportation, Foreign Air Carrier Licensing Division (X-45) and the other copy to the Federal Aviation Administration, Flight Standards International Liaison Staff, (AFS-50).

Subject matter experts from both the FAA and OST will then review each U.S. air carrier code-share audit program, with OST review consistent with its economic and regulatory responsibilities. Upon completion of the review and a determination by both FAA and OST that the audit program is acceptable, DOT will issue a letter to the U.S. air carrier stating that the audit program is acceptable. The U.S. air carrier should then incorporate the accepted audit program into its operating manual(s). Programs found unacceptable by FAA and/or OST will be returned to the U.S. air carrier with the specific reasons for the return stated in writing.

Methodology and Approach

An acceptable code-share audit program should define the objectives, scope, and methodology used to measure the performance of the foreign carrier against safety standards. These standards should meet international standards (hereinafter, the ICAO Standards) set forth in the Annexes to the Convention on International Civil Aviation (the Chicago Convention). The audit scope should include as elements the audit duration, any applicable geographical limits, and audit frequency. The audit methodology defines the process by which the U.S. air carrier will gather and analyze data, develop an audit report, provide an audit compliance statement to OST and the FAA, and make the audit report available to the FAA.

Specific Operational Areas to Audit

Before conducting the audit by the U.S. carrier, the audit team should have an understanding of the foreign carrier program operations and the applicable ICAO

Standards used in the audit. The ICAO Standards should be the standards used in reviewing whether the foreign code-share carrier's level of safety is acceptable. The audit program needs to identify the evaluation criteria to be used (i.e., performance standard checklist containing all applicable ICAO Standards or other such equivalent).

The applicable ICAO Standards are set forth in the following Annexes to the Chicago Convention:

> Annex 1   Personnel Licensing
> Annex 6   Operation of Aircraft
> Annex 8   Airworthiness of Aircraft

Auditors should review findings and recommendations from previous audits that the U.S. air carrier has performed on the foreign air carrier and any other available information to determine that remedial actions were accomplished and the condition(s) has not resurfaced in the current audit.

Criteria for Determining Satisfactory Audit Results

Each U.S. air carrier should use applicable performance standards based on the above stated ICAO Annexes to evaluate the foreign code-share carrier. Auditors should evaluate performance against those criteria specified in the ICAO Standards and assign a rating using one of the following definitions:

Meets the Criteria: Use this rating when there are no findings of a system deficiency, breakdown, or safety-related non-compliance requiring immediate action.

Finding: Use this rating when the performance of the standard evaluated does not meet the established criteria.

Criteria not in use: A specific condition is identified as applicable by the evaluation criteria, or is determined by the auditor to be applicable at the facility being evaluated and the condition is not in place, but future implementation is likely.

Not applicable: A specific condition is identified as not applicable by the evaluation criteria, as verified by the auditor, or is determined by the auditor to be not applicable at the facility being evaluated.

System for Reporting and Correcting Findings

The U.S. air carrier audit should ensure that the foreign air carrier has a process in place that identifies types of problems that may occur from common or special circumstances. Each problem needs to be analyzed to determine the root cause and to prevent repetition of the problem.

Corrective action takes into account: i) the need for a short-term or remedial fix plus long-term actions, ii) the changes required in the process, product, and specifications, iii) the availability of designated personnel responsible for the follow-up, and iv) the existence of documentation of the changes made to analyze the effectiveness of the corrective action. Corrective action should also take into account the existence of a preventive action process and whether the implemented preventive actions are evaluated on an ongoing basis to ensure effectiveness.

Monitoring System

The U.S. air carrier audit program should have a process to monitor the safety programs of the foreign air carrier. An acceptable audit program should record and evaluate all major systems affecting safety. The U.S. carrier audit program should monitor the following performance-based assessment factors on an on-going basis:

1. Accident/Incident rate over the last four years;
2. Financial condition, company ownership and economic conditions;
3. Management, company stability, turnover of key personnel, strikes, *etc.*;
4. Age of equipment, equipment on order and equipment being returned;
5. Operational capabilities, *i.e.,* international service as compared to domestic service only, indicators of established infrastructure, FAA-approved repair stations, simulators, *etc.;*
6. Company history and sophistication;
7. Knowledge of international code-share carrier programs, *i.e.*, safety, operations, and maintenance;
8. Interface and cooperation between the U.S. and foreign air carriers, familiarity with personnel, sharing of data through meetings, conferences, *etc.*; Frequency of these events; and
9. Foreign code-share air carrier facilities.

Auditor Qualifications and Authorization

Each U.S. air carrier performing a code-share safety audit should have qualified personnel with the necessary authority, knowledge, and skills for performing each audit. Auditors should have a thorough knowledge of auditing and the air carrier environment in which the foreign carrier operates the U.S. code-share service. The U.S. air carrier may employ personnel or hire outside subject matter expert consultants to conduct audits. The audit staff should have organizational independence to perform audits and be free to report objectively to the U.S. air carrier's senior management. Given the voluntary nature of the audit program the following are recommended auditor benchmark qualifications that would be usually satisfactory in this area. Where meaningful, we have drawn on standards from the GAO Government Auditing Standards (The Yellow Book):

The lead auditor should be able to:

1. Develop and communicate an audit plan, identify required audit personnel, set out an audit agenda and provide sufficient time to complete a comprehensive audit.

2. Execute an effective audit plan, incorporating generally accepted auditing techniques for verifying, documenting, and communicating findings as appropriate.

3. Objectively identify and document non-conformances to the audit standard and evaluate the effectiveness of the resultant follow-up corrective actions.

4. Demonstrate a general knowledge of quality control tools, descriptive statistics, and applicable sampling theories.

Qualification for auditors conducting code-share audits should include:

1. Training in the auditing of safety system or quality management systems or ISO 9000 Series of International Standards or equivalent.

2. Knowledge of the code-share methods and techniques and the education, skills, and experience to apply such knowledge to a code-share audits. The lead auditors should have a minimum experience level of not less than two-years in leading audits. All auditors should have attained a level of experience, or a combination of experience and education in their specific disciplines, as follows:

   a) An appropriate certified pilot, maintenance technician, or dispatcher and three years technical experience in those areas associated with flight operations, maintenance, or dispatch or in the evaluation thereof; or
   b) Relevant technical or trade school certificate with three years of technical experience in air carrier operations or maintenance, or in the evaluation thereof, or
   c) Associate's degree in Engineering or Science disciplines relating to aviation with three years of technical experience in air carrier operations or maintenance, or in the evaluation thereof; or
   d) Bachelor's degree or higher in Engineering or Science disciplines relating to aviation with three years of technical experience in air carrier operations or maintenance, or in the evaluation thereof.

3. Auditors should have a demonstrated technical knowledge of governing ICAO Annexes, Joint Aviation Requirements (JARs), and the Federal Aviation Regulations (14 CFR) as well as air carrier operations and maintenance. In addition, auditors should have effective communication and interpersonal skills, and sound writing ability.

4. Auditors should have training on evaluating foreign air carriers with respect to procedures and process included in the U.S. air carrier's code-share safety program as accepted by DOT.

5. Ethical standards
   a) Auditors should have no financial interest in or family affiliated with the foreign code-share carrier.

b) Audit contract firms should have no direct or indirect financial dealings with the host government of the foreign code-share carrier or with the foreign code-share carrier itself.

6. Other skills that may be needed in conducting an audit of a foreign carrier include:
   a) Foreign language skills, when the foreign carrier personnel are not fluent in the English language and manuals and reports involve translation to English;
   b) Engineering skills when the work involves the review of complex engineering data;
   c) Analytical skills, including the ability to adopt a systematic approach to problem solving in a complex technical environment such as:
      ↪ Operational analysis (developing the questions for use)
      ↪ Flow charting (understanding the process)
      ↪ Matrix analysis (determining the areas of importance)
      ↪ Checklists (their uses and abuses);
   d) Statistical sampling skills when the work involves the use of statistical sampling methodologies; and
   e) Completion of an accredited quality system auditor course, practical experience in system auditing, and sound knowledge of project management.

Audit Frequency

Each U.S. air carrier having a DOT code-share program should audit a quarter of the foreign code-share carriers (14 CFR Part 129) providing its U.S. code-share service during each quarter of the year that begins on the implementation date of the Department's code-share safety program. However, for an existing code-share where the foreign carrier is NOT certificated under 14 CFR Part 129, the U.S. air carrier should perform an audit of the foreign air carrier within 90-days following DOT's code-share program implementation date. Thereafter, the U.S. air carrier would conduct a follow-up audit of each foreign code-share carrier every 24-months after the initial audit.

We recognize that a number of U.S. carriers may have already conducted audits under the aforementioned DoD/ATA program, and that the information gathered as part of that program also could serves the needs of the Department's program and avoid unnecessary duplication. The degree to which a specific DoD/ATA program audit will address the Department's needs, will of course, vary from case to case. As a general matter, however, carriers can assume that any DoD/ATA audits completed within 6-months prior to the issuance date of these guidelines and complying with the standards of the U.S. carrier's DOT-accepted audit program, will be considered for review under the Department's program. On the other hand, carriers can assume that the issue of whether audits falling outside those parameters will be deemed suitable for review purposes under the Department's program will depend in each instance on the facts of the specific case presented.

At the end of each audit, the auditor or audit team should prepare a written report setting out the results in an appropriate form. Audit reports should be prepared in all cases, including those where the foreign carrier's operations are found to not meet the ICAO Standards used in conducting the audit. Any findings should be communicated to the foreign carrier immediately and in no case, later than 24 hours following such a determination.

The report content should be easy to understand, independent, objective, fair and constructive, free of vagueness or ambiguity, and include only information supported by competent and relevant audit evidence. The report should contain a statement of positive assurance on those items tested for compliance and negative assurance of those items not tested. Auditors should use sound professional judgment in determining the standards that apply. The auditors' determination that certain standards do not apply to the audit should be documented in working papers and supporting documents included with the report. Situations may occur in which auditors are not able to follow an applicable standard. In those situations, the auditors should disclose in the audit report the fact than an applicable standard was not followed, the reason therefore, and the known effect that not following the standard had on the audit results.

Report Content

The U.S. air carrier safety audit report should contain the following:

1. Title. The title should be unique to identify the foreign air carrier audited and the U.S. carrier responsible for the audit.
2. Signature and date. The audit team leader should sign and date the audit report.
3. Listing of the audit team members.
4. Listing of the maintenance facilities evaluated, including maintenance contracts.
5. Listing of all training facilities evaluated.
6. Objectives and scope. The report should include reference to the objectives and scope of the audit that establishes the purpose and boundaries. The report should identify the area or extent to which it relates including what facility geographic location(s) were evaluated. The audit duration dates should be included.
7. Completeness. Opinions should be appended to and published with the performance criteria as appropriate.
8. Identification of subject matter and compliance with standards. The report should not concentrate solely on criticism of the past, but should be constructive. The auditor's conclusions and recommendations are important aspects of the audit and, where appropriate, are written guides for action. Generally, these recommendations should suggest what improvements are needed rather than how to achieve them. A checklist of the ICAO Standards used in conducting the foreign air carrier audit should reflect whether each performance standard criterion was applicable, and if so, whether the code-share carrier satisfactorily met or did not meet the performance standard (see the section titled Criteria for Determining Satisfactory Audit Results).
9. Auditor working documents and evidence collected to support the audit conclusions.

Report Access and Review

All safety audit reports by the U.S. air carrier of the foreign code-share carrier should be made available for FAA review not more than 45-days following the completion of each audit, including reports from 24-month frequency audits[5].

Each audit report should be available for FAA review during normal business hours at a location designated by the U.S. carrier performing the audit within the geographic area of the U.S. air carrier's FAA CHDO. The U.S. air carrier should notify the FAA of the availability of every audit report for review, including audit reports where the foreign air carrier's operations were found not to meet the ICAO Standards.

Report Retention

The U.S. air carrier performing code-share audits should maintain all code-share audit reports for a period of not less than five years and all working papers and supporting evidence for a period of not less than 24-months. The audit program should identify a specific U.S. air carrier point of contact to whom the FAA can direct questions and comments concerning specific audit reports.

IV. Compliance Statement

The U.S. air carrier's Director of Safety (or an equivalent position established under 14 CFR § 119.65) should provide a signed and dated audit compliance statement for all audits conducted by the U.S. air carrier. A compliance statement should be submitted only after all corrective actions have been completed, and not be predicated on future actions planned to be completed. The U.S. air carrier should provide the audit compliance statement to DOT within 45-days following the audit completion or with the initial code-share application, whichever is earlier.

At a minimum, the compliance statement should contain the following:

- The dates on which the foreign carrier was audited;

- A statement that the audit of the foreign carrier was conducted in accordance with the audit program as reviewed and deemed acceptable by the DOT;

- A statement that the foreign carrier's operations for U.S. code-share service meets all applicable ICAO Standards.

- The audit report is available for FAA review.

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[5] The FAA will consider requests for extension of the 45-day period on a case-by-case basis.

CODE-SHARE APPLICATIONS

Code-share applications shall be filed in the Department's Docket Section (PL-401) at 400 7th Street, S.W., Washington, D.C. 20590 (see 14 CFR Part 212)

Code-share applications shall be filed with an original and two copies, or by using the Dockets electronic filing system (http://dms.dot.gov)

Code-share applications shall include the following:

- the code-share application with service list; and

- the code-share agreement.

The U.S. carrier applicant may attach a compliance statement (as fully described in section IV) with respect to the level of safety of the U.S. code-share service that:

- it has completed an audit of its foreign code-share carrier in compliance with a DOT-accepted code-share audit program on a specified date;

- the operations of the foreign code-share carrier meet applicable ICAO safety standards; and

- the audit is available for FAA review.

Code-share applications shall be served on the following:

- Director, Flight Standards Service (AFS-1), FAA;

- Antitrust Division, Department of Justice;

- U.S. Transcom/TCJ5 (attn: Air Mobility Analysis), Department of Defense;

- each U.S. certificated air carrier authorized to serve the general area in which the proposed transportation is to be performed; and

- any other party the Department deems necessary.

OST will review the code-share application based on economic and policy grounds. OST will consider any comments filed by interested parties, as well as the views of other government agencies germane to the issue whether approval of an application will be in the public interest. The FAA will review the audit report and other available information concerning the safety of the proposed U.S. air carrier code-share service, and then will advise OST of its position.

Assuming no issues remain for resolution or otherwise warrant deferral of a decision, OST will issue a decision on the proposed code-share application.

Requests for review or reconsideration of any decision relative to a code-share application will follow the procedures prescribed in Title 14, Code of Federal Regulations.